

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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JEFFERSON-PILOT LIFE . CIVIL ACTION NO. C-1-02-479
INSURANCE COMPANY, et al., .
Plaintiffs, . Cincinnati, Ohio
- v - . Tuesday, August 17, 2004
3:00 p.m. Hearing
CHRISTOPHER L. KEARNEY, .
Defendant. . Cross-Motions for Summary
Judgment
.....

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE S. ARTHUR SPIEGEL, JUDGE
TRANSCRIPT ORDERED BY: William R. Ellis, Esq.

APPEARANCES:

For the Plaintiffs: WOOD & LAMPING
BY: William R. Ellis, Esq.
and Amy Gasser Callow, Esq.
600 Vine Street
Suite 2500
Cincinnati, Ohio 45202

For the Defendant: GRAYDON, HEAD & RITCHEY
BY: Michael A. Roberts, Esq.
511 Walnut Street
Cincinnati, Ohio 45202

Also Present: Mr. Christopher Kearney

Law Clerk: Keith Syler, Esq.

Courtroom Clerk: Kevin Moser

Court Reporter: Mary Ann Ranz

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1 were for the previous month?

2 MR. ROBERTS: On Residual Disability there's a
3 monthly form, and Mr. Kearney has filled them out dutifully.

4 THE COURT: Okay.

5 MR. ROBERTS: So, what they tell him, If your
6 earnings are at least 75 percent "the full benefit for Total
7 Disability will be payable." The full benefit for Total
8 Disability is Waiver of Premium, COLA, Social Security
9 adjustment. There's no -- there's no debating that. Again,
10 Residual Disability, the amount of your Residual Disability
11 Benefit will be the percentage of your Basic Benefit and
12 Social Security Supplement. Again, they restated it in the
13 proposal.

14 This is a pretty important sheet as well. This is the
15 payment history on his claim. Every row is a month of time,
16 and there's two of these: One for each policy, because
17 there's really two policies. But as you can see, every month
18 from '93 through sometime in 2000 -- 2000, when Mr. Kearney
19 was issued a check, two checks, by the insurance company in
20 North Carolina, two people -- there's two sets of initials --
21 confirmed that the payment was correct. Two people, every
22 month, two checks a month. That's four reviews a month times
23 7 or 8 years in the '90s. It's hundreds of reviews. Every
24 month he got the COLA; every month he got the Social Security
25 Supplement.